# FINAL ENGINEERING REPORT

**HARBOR VIEW SQUARE**
**68 WEST FIRST STREET**
**OSWEGO, NEW YORK**
**NYSDEC BCP SITE NO. C738040**

*Prepared for:*

**HARBOR VIEW SQUARE, LLC**

*Prepared by:*

**D&B ENGINEERS AND ARCHITECTS, DPC**

*Certified by:*

**JEFFREY R. HOLT, P.E**

**DECEMBER 2021**
**REV. 1 - APRIL 2022**

## CERTIFICATION

I, Jeffrey R. Holt, P.E., am currently a registered professional engineer licensed by the State of New York, I had primary direct responsibility for implementation of the remedial program activities, and I certify that the Soil Remedial Action Work Plan and Work Plan for Reagent Injection were implemented and that all construction activities were completed in substantial conformance with the Department-approved work plans.

I certify that the data submitted to the Department with this Final Engineering Report demonstrates that the remediation requirements set forth in the Soil Remedial Action Work Plan and Work Plan for Reagent Injection and in all applicable statutes and regulations have been or will be achieved in accordance with the time frames, if any, established for the remedy.

I certify that all use restrictions, Institutional Controls, Engineering Controls, and/or any operation and maintenance requirements applicable to the Site are contained in an environmental easement created and recorded pursuant ECL 71- 3605 and that all affected local governments, as defined in ECL 71-3603, have been notified that such easement has been recorded.

I certify that a Site Management Plan has been submitted for the continual and proper operation, maintenance, and monitoring of any Engineering Controls employed at the Site, including the proper maintenance of all remaining monitoring wells, and that such plan has been approved by the Department.

I certify that all documents generated in support of this report have been submitted in accordance with the DER's electronic submission protocols and have been accepted by the Department.

I certify that all data generated in support of this report have been submitted in accordance with the Department's electronic data deliverable and have been accepted by the Department.

I certify that all information and statements in this certification form are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law. I, Jeffrey R. Holt am certifying as Owners's Designated Site Representative for the site.

| 57039 | 5/9/22 | |
|---|---|---|
| NYS Professional Engineer # | Date | Signature |

**FINAL ENGINEERING REPORT**

**HARBOR VIEW SQUARE**
**68 WEST FIRST STREET**
**OSWEGO, NEW YORK**

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## LIST OF ACRONYMS

| | |
|---|---|
| BCA | Brownfield Cleanup Agreement |
| BCP | Brownfield Cleanup Program |
| CAMP | Community Air Monitoring Plan |
| CCR | Construction Completion Report |
| DER | Division of Environmental Remediation |
| DNAPL | Dense Non-Aqueous Phase Liquid |
| EC | Engineering Control |
| ESD | Explanation of Significant Difference |
| FER | Final Engineering Report |
| IC | Institutional Control |
| IIWA | Immediate Investigation Work Assignment |
| IRM | Interim Remedial Measure |
| ISCO | In-Site Chemical Oxidation Injection |
| NYSDEC | New York State Department of Environmental Conservation |
| NYSDOH | New York State Department of Health |
| NYCRR | New York Codes, Rules and Regulations |
| O&M | Operation and Maintenance |
| OM&M | Operation, Maintenance and Monitoring |
| OSHA | Occupational Safety and Health Administration |
| QA/QC | Quality Assurance/Quality Control |
| QAPP | Quality Assurance Project Plan |
| RAO | Remedial Action Objective |
| RAWP | Remedial Action Work Plan |
| RCRA | Resource Conservation and Recovery Act |
| RI/FS | Remedial Investigation/Feasibility Study |
| ROD | Record of Decision |
| RP | Remedial Party |
| SCG | Standards, Criteria and Guidelines |
| SCO | Soil Cleanup Objective |
| SMP | Site Management Plan |

## LIST OF ACRONYMS (CONT.)

| | |
|---|---|
| SSD | Sub-Slab Depressurization |
| SVI | Soil Vapor Intrusion |
| SVOCs | Semi-Volatile Organic Compounds |
| TAL | Target Analyte List |
| TCL | Target Compound List |
| TCLP | Toxicity Characteristic Leachate Procedure |
| TPHs | Total Petroleum Hydrocarbons |
| UST | Underground Storage Tank |
| VCA | Voluntary Cleanup Agreement |
| VOCs | Volatile Organic Compounds |

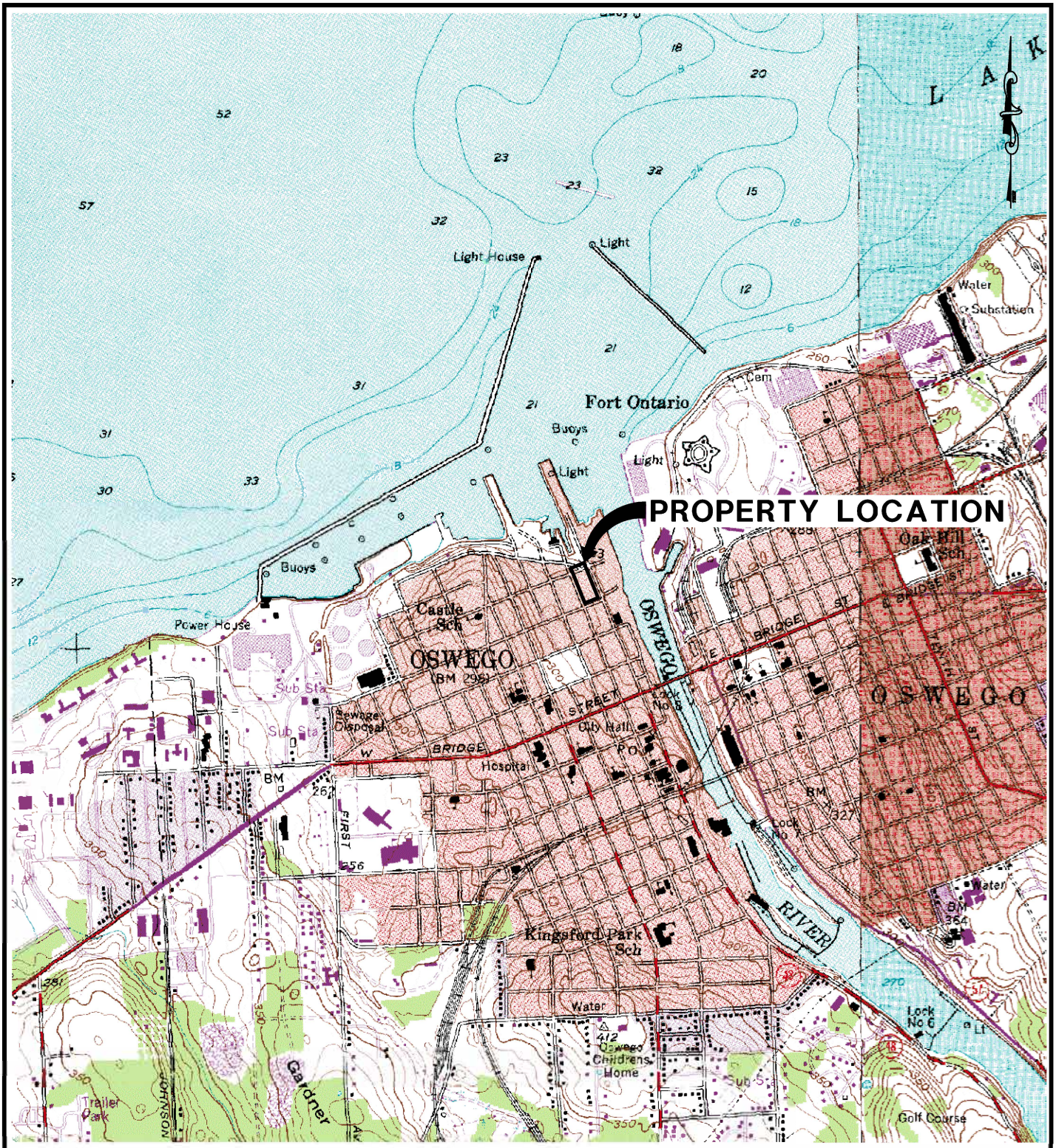
# 1.0 BACKGROUND AND SITE DESCRIPTION

Harbor View Square, LLC. (Volunteer) entered into a Brownfield Cleanup Agreement (BCA) with the New York State Department of Environmental Conservation (NYSDEC) in January 2017, to investigate and a remediate a 2.4-acre property in the city of Oswego, New York. The property was remediated to restricted residential use and has been developed for restricted residential and commercial use.

The property was originally investigated under the Environmental Restoration Program (ERP) as Site No. E738040 but is now owned by the Volunteer and underwent remediation under the Brownfield Cleanup Program, (Site No. C738040). The NYSDEC is managing the off-site contamination (Site No. C738040A), which includes the off-site groundwater plume and off-site soil vapor. The information contained herein has been compiled by D&B Engineers and Architects, DPC (D&B) on behalf of the Harbor View Square, LLC utilizing all available information provided by both Synapse Risk Management, LLC and the Engineer of Record, Jeffrey R. Holt, P.E.

## 1.1 Site Location and Description

The Harbor View Square Site (Site) is located at 68 West First Street in the City of Oswego, New York and is identified as Section 128.38, Block 3, Lot 1 on the Oswego County Tax Map (See Figure 1-1). The Site is approximately 2.4-acres in area and is bounded by West First Street to the east, West Second Street to the west, West Schuyler Street to the south, and Lake Street to the north (see Figure 1-2 – Site Layout Plan). The Oswego River is located approximately 390 feet to the east of the site, and flows north into Lake Ontario, which, at its nearest point, is located approximately 250 feet north of the site. The area to the west of the site is primarily residential. The area to the south contains a mixture of residential and commercial properties, and to the north there is a municipal parking area, a boat launch, a marina, a United States Coast Guard facility, and a marine museum located on property owned by the Oswego Port Authority. To the east and northeast are industrial properties, including a major oil storage facility, the City of Oswego West Side Excess Flow Management facility, and a cement shipping terminal. The boundary of the Site is more fully described in **Appendix A** – Survey Map, Metes and Bounds Description. The owner of the Site parcel at the time of issuance of this Final Engineering Report (FER) is the Volunteer.




SOURCE: USGS 7.5 MIN. TOPOGRAPHIC QUADRANGLES: OSWEGO WEST, N.Y., 1954, PHOTOREVISED 1978 AND OSWEGO EAST, N.Y., 1954, PHOTOREVISED 1978.

APPROXIMATE GRAPHIC SCALE:

0 2000' 4000'

P: EPA
5/18/17
SYNAPSE/WIP/HSGVIS 24-16/HSGVIS-2416-SL3.DWG

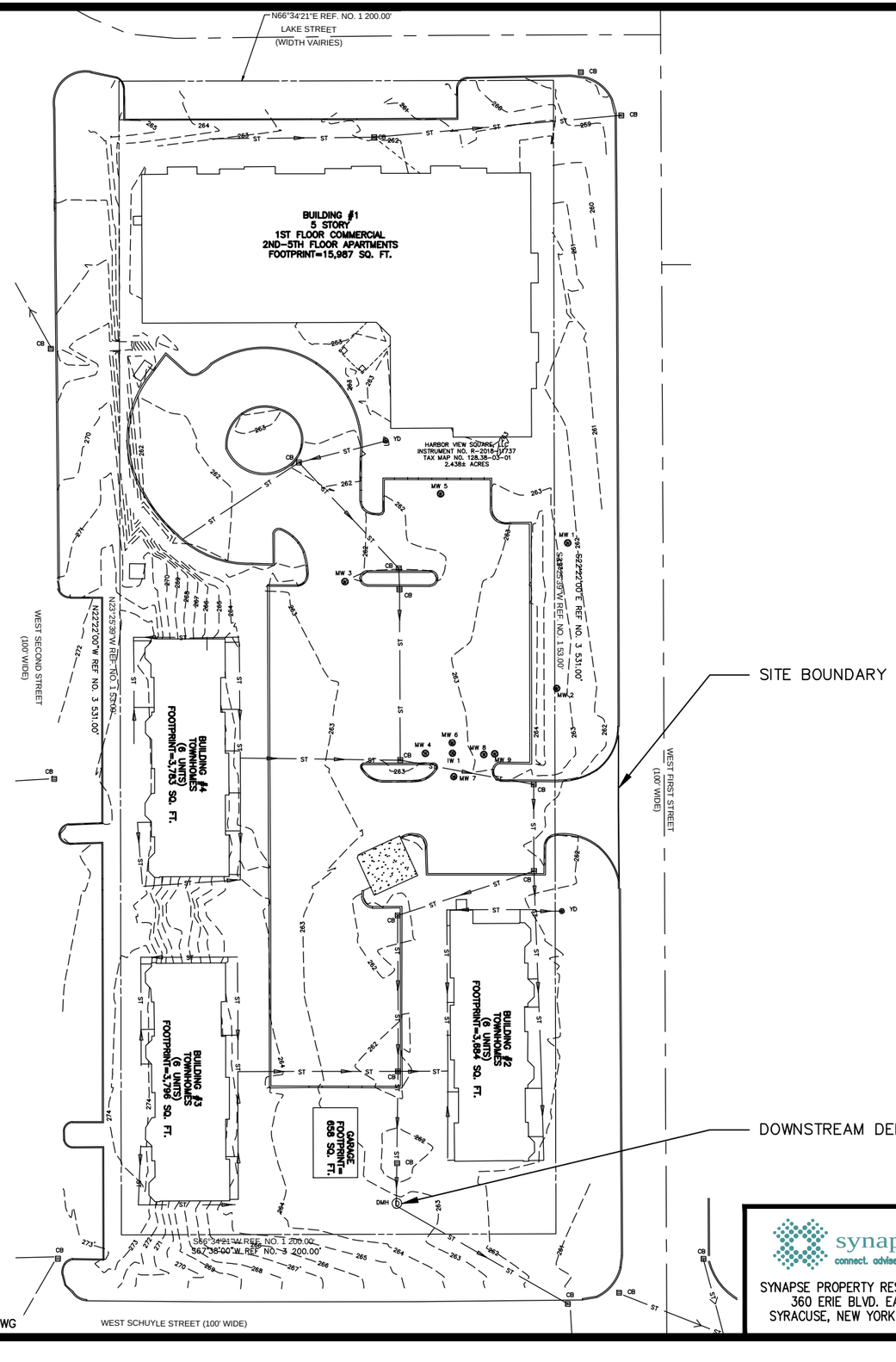
HARBOR VIEW SQUARE
NYSBCP SITE NO. C738040
68 WEST FIRST STREET
OSWEGO, NEW YORK

# SITE LOCATION MAP

PROJECT NO.: HSGVIS-24-16-05

DATE: MAY 2017

FIGURE NO.: 1-1




## LEGEND

- SITE BOUNDARY
- ST — STORM SEWER (ARROW DEPICTS FLOW DIRECTION)
- CB — CATCH BASIN
- (W) — MONITORING WELL
- (D) — DOWNSTREAM DEFENDER

NOTES:

1. BASE MAP WAS DIGITIZED FROM HARBOR VIEW SQUARE POST CONSTRUCTION AS–BUILT DATED 12/29/2021 THAT WAS PREPARED BY PASSERO ASSOCIATES.
2. MONITORING WELL LOCATIONS WERE SURVEYED BY PASSERO ASSOCIATES IN DECEMBER 2021.
3. LOCATIONS OF SUBSURFACE UTILITIES SHOWN ARE APPROXIMATE.
4. OTHER UNDERGROUND UTILITIES AND STRUCTURES MAY EXIST. THE LOCATION OF WHICH ARE UNKNOWN.

60 30 0 60'
1"=60'

synapse
connect. advise. insure.

SYNAPSE PROPERTY RESOURCES
360 ERIE BLVD. EAST
SYRACUSE, NEW YORK 13202

HARBOR VIEW SQUARE
NYSBCP SITE NO. C738040
68 WEST FIRST STREET
OSWEGO, NEW YORK

# SITE PLAN

PROJECT NO.: HSGVIS–24–16–05
DATE: APRIL 2021
FIGURE NO.: 1-2

P: BL
4/19/21
SYNAPSE/WIP/HSGVIS 24–16/HSGVIS–2416–B08.DWG

F:\5277\dwg\5277-C-PL01.dwg, FIG, 3/22/2022 12:05:42 PM, rferrell

## 2.0 DESCRIPTION OF SELECTED REMEDY

### 2.1 Remedial Action Objectives

Based on the results of the Remedial Investigation (RI), the following Remedial Action Objectives (RAOs) were identified for this Site.

#### 2.1.1 Groundwater RAOs

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards. Remove the source of ground or surface water contamination.
- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

RAOs for Environmental Protection

- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.
- Remove the source of ground or surface water contamination.

#### 2.1.2 Soil RAOs

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

### 2.1.3 Soil Vapor RAOs

RAOs for public Health Protection

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

## 2.2 Description of Selected Remedy

The Site was remediated in accordance with the remedy selected by the NYSDEC in the Record of Decision (ROD) dated November 2013.

The factors considered during the selection of the remedy are those listed in 6 NYCRR 375-1.8. The following are the components of the selected remedy:

1. Excavation of soil/fill which contains volatile organic compounds at concentrations exceeding their soil cleanup objective for the protection of groundwater, as defined by 6 NYCRR Part 375-6.8.
2. Removal of the concrete slab below the former underground storage tank (UST) and the removal of the soil to the east of the process lines connecting the former southern building sump and the former UST.
3. Excavation of soil beneath any on-Site buildings demolished or paving removed that may be considered a source area.
4. In-situ chemical treatment (ISCT) to treat the chlorinated volatile organic compounds in groundwater.
5. Construction and maintenance of a soil cover system to prevent human exposure to remailing contaminated soil/fill remaining at the Site.

6. The potential for soil vapor intrusion will be evaluated for any buildings developed on the site, and the recommended actions will be implemented to address exposures related to soil vapor intrusion.

7. Following implementation of the ISCT described in remedy element 4, groundwater contamination remaining after active remediation will be addressed through natural attenuation. Groundwater will be monitored for site-related contamination and other indicators which will provide an understanding of the mechanisms attenuating the contamination (e.g., biological activity, dispersion, etc.). It is anticipated that contamination will decrease by an order of magnitude in a reasonable period of time (5 to 10 years). Reports of the attenuation will be provided at 5 and 10 years, and active remediation will be considered if it appears that natural processes alone will not address the residual contamination.

8. Execution and recording of an Environmental Easement to restrict land use and prevent future exposure to any contamination remaining at the Site.

9. Development and implementation of a Site Management Plan for long term management of remaining contamination as required by the Environmental Easement, which includes plans for: (1) Institutional and Engineering Controls, (2) monitoring, (3) operation and maintenance and (4) reporting.

10. Periodic certification of the institutional and engineering controls listed above.

## 3.0 INTERIM REMEDIAL MEASURES AND OPERABLE UNITS

The information and certifications made in the Soil and Sub-Slab Depressurization System Construction Completion Report (Soil and SSDS CCR, April 2022) provided as **Appendix B** and the Groundwater Construction Completion Report (Groundwater CCR, April 2022) provided as **Appendix C** were relied upon to prepare this report and certify that the remediation requirements for the site have been met.

### 3.1 Interim Remedial Measure

An Interim Remedial Measure (IRM) was conducted in 2009 at the Site consisting of the removal of a 550-gallon aboveground fuel oil storage tank (AST), removal of a 15,000-gallon buried railroad tank car as well as sludge that was present within the buried railroad tank car (i.e., underground storage tank [UST]) and debris that was present within both tanks.

The AST was located on the west side of the on-site building in a concrete block containment structure. There was no indication that a release had occurred from the tank. The tank was disposed of off-site as scrap metal. There were several small jars with a blue powder within the tank as well as a railroad flare. The materials were removed and containerized for proper off-site disposal.

The 15,000-gallon UST was located on the eastern side of the Site. Its original use is unknown, but it is believed to have been used for recirculation of solvents or waste disposal during operation of the on-site wire drawing facility. The UST appeared to be sound, but the connections and piping had apparently leaked and contaminated surrounding soils. The UST was reportedly underlain by a concrete slab, which was left in-place.

Approximately 4,258 gallons of sludge were removed from the UST along with debris such as wood, rocks and heating coils. The sludge and debris were disposed of off-site. The UST was cleaned prior to off-site disposal using water which was collected and disposed of off-site as well.

## 3.2 Operable Units

The Remedial Investigation/Remedial Alternatives Report (RI/RAR) was issued by Clough Harbor Associates (CHA) in 2011 and the Supplemental Subsurface Investigation/Alternatives Analysis Report (SSI/AAR) was issued by O'Brien and Gere (OBG) in 2013. These investigation activities were done under the NYSDEC Environmental Restoration Program as Site Number E738040. Following these investigation activities, the NYSDEC issued Record of Decisions (RODs) in 2013: one ROD for OU-1: On-Site Area; and one for OU-2: Off-Site Area. These RODs presented the remedy selected by NYSDEC to address documented contamination at each OU. After the Volunteer entered into the BCA, the NYSDEC made a positive significant threat determination for the BCP site. The Volunteer is not responsible for conducting a remedial program for off-site contamination under the BCP. As such, the off-site contamination emanating from the BCP site is managed under site ID C738040A – Harbor View Square - Off-site.

## 4.0 DESCRIPTION OF REMEDIAL ACTIONS PERFORMED

Remedial activities completed at the Site were conducted in accordance with the NYSDEC-approved Soil Remedial Action Workplan (Soil RAWP, Holt, 2018) and the Work Plan for Reagent Injection (Holt, 2021) for the Harbor View Square site. Remedial activities are described in detail in the Soil and SSDS CCR (**Appendix B)** and the Groundwater CCR (**Appendix C)**.

### 4.1 Governing Documents

The governing documents included in the Soil RAWP included a Community Air Monitoring Plan (CAMP), Site-specific Health and Safety Plan (HASP) and a Stormwater Pollution Prevention Plan (SWPPP). The governing documents included in the Work Plan for Reagent Injection included a Community Air Monitoring Plan, Site-specific Health and Safety Plan (HASP) and a Spill Contingency Plan (SCP). These governing documents are discussed in the Soil and SSDS CCR and Groundwater CCR (**Appendix B** and **Appendix C**, respectively) and summarized below.

#### 4.1.1 Community Air Monitoring Plan

Community air monitoring was conducted during all ground intrusive remedial work performed under these remedial actions. Two perimeter air monitoring stations (one upwind and one downwind) were setup to continuously monitor air quality at the perimeter of the Site. Each station was equipped with a dust meter and organic vapor meter. The meters were setup to output results based on a 15-minute real-time average.

Fugitive visible dust was a concern during the Soil RAWP remedial construction activities as they were conducted in concert with Site development activities. As presented in the Soil CCR, no documented exceedances of the perimeter action level of 5 parts per million (ppm) for VOCs or the perimeter action level of 150 ug/$m^3$ for dust were recorded at any time throughout the course of the work.

Fugitive visible dust was also a concern during the drilling activities associated with the implementation of the Work Plan for Reagent Injection. Particulate levels exceeded the action levels of 0.1 milligrams per cubic meter ($mg/m^3$) requiring implementation of dust control measures on two occasions on September 28, 2021 and on one occasion on September 29, 2021. On all three occasions, mitigation measures were immediately taken to address the migration of dust from the work area. Based on the CAMP monitoring data from these activities, at no time during the work was the perimeter action level of 5 ppm for VOCs exceeded.

#### 4.1.2 Health and Safety Plan

All remedial work performed under these remedial actions were in full compliance with governmental requirements, including Site and worker safety requirements mandated by Federal OSHA.

The HASP was complied with for all remedial and invasive work performed at the Site.

#### 4.1.3 Stormwater Pollution Prevention Plan

The erosion and sediment controls for all remedial construction were performed in conformance with requirements presented in the New York State Guidelines for Urban Erosion and Sediment Control and the site-specific SWPPP (Passero Associates, August 2016) and was included as Exhibit 4 to the Soil RAWP.

#### 4.1.4 Spill Contingency Plan

A SCP was followed during implementation of the Work Plan for Reagent Injection. This plan included the storage, handling and general spill response and containment procedures.

## 4.2 Remaining Contamination

Soil

The remedial excavation activities documented in the Soil and SSDS CCR were designed and implemented to remove soils that contained CVOCs at concentrations exceeding the SCO for the protection of groundwater. Prior to backfilling the remedial excavation areas, granular catalyzed persulfate (Regenesis Persulf) was hand broadcast on the excavation bottom and four feet up the excavation sidewalls to chemically oxidize remaining contamination that might have been present.

TCE was detected in two verification samples (VA ROD SOIL W 7-9 12, VA ROD SOIL N 2-4 14) at a concentration of 5.1 ppm and 1.7 ppm, respectively, which exceeded the protection of groundwater SCO of 0.47 ppm but was below the restricted residential SCO of 21 ppm. It was agreed with NYSDEC that this location would be addressed with the granular catalyzed persulfate and these locations were not further excavated. Several PAHs were detected in five verification sidewall samples that exceeded the restricted residential use SCOs

In addition, several metals were detected in sixteen verification sidewall samples that exceeded the restricted residential use SCOs.

The analytical results that exceeded the restricted residential use SCOs are presented in the Soil and SSDS CCR (Figure 3-4 – VOC Exceedances, Figure 3-5 – SVOC Exceedances, and Figure 3-6 – Metals Exceedances).

In addition, excavation activities to facilitate Site development may have removed additional soil discussed above and that are discussed below.

The soil at the Site prior to implementation of the soil remedial action generally included historical fill material. The historical remedial investigation activities identified, in addition to CVOCs, PAHs and metals in soil across the site at concentrations greater than Part 375 SCOs for

the protection of public health for restricted residential use. In general, the levels were only slightly greater than the SCOs; however, a few isolated locations contained higher levels. Lead was detected in one location at 38,800 ppm, compared to its restricted residential SCO for the protection of public health of 400 ppm; however, samples collected near this location had much lower levels of lead (maximum of 319 ppm), and the next highest lead concentration detected was 875 ppm. Mercury was detected at a maximum concentration of 52 ppm in one location, compared to its restricted residential SCO for the protection of public health of 0.81 ppm. Samples collected near this location had much lower levels of mercury, and the next highest level of mercury detected during the investigation was 4.5 ppm. Benzo(a)pyrene (a PAH) was detected at a maximum concentration of 4.9 ppm, compared to its restricted residential SCO of 1 ppm, and it exceeded 1 ppm in 7 out of 23 samples collected. It should be noted that over 37,000 tons of material was transported offsite for disposal as part of the remedial action and Site development activities. This quantity included most of the historical fill identified above. Any remaining historical fill is below the demarcation layer and associated cover system.

Groundwater

The primary contaminants of concern (COCs) in the on-site groundwater prior to remediation were trichloroethene (TCE), 1,1-dichloroethene (1,1-DCE), cis-1,2-dichloroethene (cis-1,2-DCE), trans-1,2-dichloroethene (trans-1,2-DCE), and vinyl chloride (VC). Remedial actions to remediate primary COCs in groundwater included an on-site pilot scale study for ISCT which is described in the Groundwater CCR (**Appendix C**). .

Pre-injection groundwater monitoring was conducted seven days after well development for the five new wells installed for the pilot study and one existing monitoring well (MW-4) to identify baseline groundwater quality. Post injection groundwater monitoring occurred approximately 30-, 60- and 90-days following the completion of the reagent injections.

Based on the review of the post injection data, TCE reduction is evident. All ten samples exceeded TCE criteria of 5 ug/L in pre-injection samples and only two of ten samples exceeded TCE criteria of 5 ug/L in the 90-day samples with non-detectable concentrations in seven of the

ten samples. Although TCE concentrations have been significantly reduced, elevated concentrations of DCE and VC are present as expected with anaerobic biodegradation.

The groundwater analytical results also indicate an increase in concentrations of ethane, ethene and methane. The increase in methane, in particular in the injection well and nearby MW-4 and MW-6, may indicate that methanogenesis is occurring. Favorable concentrations of methane (>1,000 ug/L) remain in all monitoring well locations since the injections, except for side-gradient well MW-7 and downgradient well MW-8. Significant increases in alkalinity were observed following injections and remain, potentially resulting from the dissolution of carbonate minerals from the production of carbon dioxide during metabolism of the microorganisms, which is another factor indicating biodegradation is occurring. As sulfate is also an alternate election acceptor, sulfate reduction is also an indication that the anaerobic biodegradation is occurring. The elevated concentrations of total organic carbon, negative oxidation/reduction potential observed in the 90-day groundwater monitoring also indicates the environment remains conducive to anaerobic biodegradation.

The post-injection sampling results indicate that anerobic biodegradation is on-going at the Site. Reagent longevity of three years or greater has been observed at other sites. Continued groundwater monitoring will be performed in accordance with the approved Site Management Plan (SMP). Subsequent rounds of groundwater sampling will provide additional data to support the remedial design, the effectiveness of the continued biodegradation of chlorinated VOCs in groundwater, and a better understanding of the longevity of the reagents injected during the pilot study. A conceptual work plan for future injections, installation of additional injection wells and monitoring wells is provided in the SMP and will be modified based on the results of future groundwater sampling. The work plan for additional injections and monitoring will be provided to NYSDEC for review and approval prior to the performance of any additional injections.

Soil Vapor

Based on remaining contamination identified in the sub-surface soil and groundwater, the potential exists for VOCs to be present in soil vapor in subsurface soil. Engineering controls in the

form of sub-slab depressurization systems (SSDSs) were installed in each of the newly constructed on-site buildings to mitigate the potential for vapor intrusion into the buildings from the subsurface. After the SSDSs were operating, soil vapor intrusion investigations were conducted for Buildings 2, 3, 4 in 2020 and Building 1 in 2021. The soil vapor intrusion investigations included the collection of indoor air, sub-slab soil vapor, exterior soil vapor and ambient air samples. The analytical results from the samples were compared to guidance values for indoor air and evaluated using the Soil Vapor/ Indoor Air Decision Matrices set forth in the New York State Department of Health (NYSDOH) Guidance for Evaluation of Soil Vapor Intrusion in New York State, dated October 2006 and updated May 2017. The results of the soil vapor sampling are presented in the Soil and SSDS CCR (**Appendix B).**

Analytical results from the indoor air samples did not exceed the NYSDOH guidance values for indoor air. No additional actions were recommended to address human exposures in any of the sampled locations, based on evaluation of analytical results using NYSDOH Soil Vapor/Indoor Air Decision Matrices A, B, and C.

Trans-1-2DCE was detected from all indoor air samples and sub-slab soil vapor samples collected from each of the buildings. It was concluded that the source of trans-1,2-DCE was off-gassing spray foam insulation used as a construction material for the buildings. Although NYSDOH Guidance for Evaluation Soil Vapor Intrusion in New York State does not provide a guidance value for trans-1,2-DCE, the NYSDOH determined a site-specific background threshold concentration of 1.0 ppb for trans-1,2-DCE. The highest concentration of trans-1,2-DCE detected from an air sample collected within the site was detected from a sub-slab soil vapor sample from Building 1 (B1-SSV-1) at 2.1 ppb. It is anticipated that with the continued operation of the HVAC system in Building 1 that indoor air would achieve compliance with the less than 1 ppb background threshold for trans-1,2-DCE.

### 4.3 Institutional Controls

The site remedy requires that an environmental easement be placed on the property to (1) implement, maintain and monitor the Engineering Controls; (2) prevent future exposure to

remaining contamination by controlling disturbances of the subsurface contamination; and, (3) limit the use and development of the site to restricted residential, commercial or industrial uses only.

The environmental easement for the site was executed by the Department on December 18, 2019 and filed with the Oswego County Clerk on January 2, 2020. The County Recording Identifier number for this filing is R-2020-000033. A copy of the easement and proof of filing is provided in **Appendix D** – Environmental Easement.

The institutional controls in place for the site are more fully described in the Soil and SSDS CCR (**Appendix B**) and the Groundwater CCR (**Appendix C**).

## 4.4 Engineering Controls

Since remaining contaminated soil, groundwater, and the potential for soil vapor, exists beneath the site, Engineering Controls (EC) are required to protect human health and the environment. The site has the following ECs, as briefly described in the following subsections and are further discussed in the Soil and SSDS CCR (**Appendix B**) and Groundwater CCR (**Appendix C**).

Procedures for monitoring, operating, and maintaining the ECs are provided in the Operation and Maintenance Plan in Section 4 of the Site Management Plan (SMP). The plan also addresses inspection procedures that must occur after any severe weather condition has taken place that may affect on-site ECs.

### 4.4.1 Cover System

Exposure to remaining contamination at the Site is prevented by a cover system placed throughout the Site and underlain by a demarcation layer. Components of the cover system include vegetated clean soil having a minimum thickness of 24 inches, concrete and asphalt pavement having a minimum thickness of six inches, as well as concrete building floor slabs and footings

having a minimum thickness of six inches. A demarcation layer was installed directly beneath the cover system in all areas of the Site except below building footings. The demarcation layer consists of black or orange polyethylene sheeting.

### 4.4.2 Sub-Slab Depressurization Systems

Active sub-slab depressurizations systems (SSD systems) were incorporated into the four buildings constructed at the Site to mitigate the potential vapor intrusion into the buildings from the sub-surface.

Two active SSD systems were installed in Building 1, one in the commercial area and one in the residential area. Both active SSD systems in Building 1 were constructed utilizing four-inch diameter perforated piping installed within washed gravel base below a 10-mil vapor barrier. The perforated piping was manifolded to stacks which include solid polyvinyl chloride (PVC) pipes connected from the gravel base to Fantech model Rn4EC inline fans mounted on the roof of Building 1. The west stack is associated with the system in the residential area, and the east stack is associated with the system in the commercial area. The 10-mil vapor barrier in the residential area was covered by a concrete floor slab. At the time of completion, a concrete floor slab was not installed in the commercial area of Building 1, and the 10-mil vapor barrier was covered by a 20-mil vapor barrier membrane in lieu of a concrete floor slab. Both SSD systems in Building 1 were designed to maintain a negative pressure differential of at least 0.002 water column inches (wci).

One active SSD system was installed in each of Buildings 2, 3, and 4. Each of these active SSD systems were constructed utilizing four-inch diameter perforated pipes installed within washed gravel base below 10-mil vapor barriers covered by concrete floor slabs. The four-inch diameter perforated pipes were manifolded to stacks which include solid poly vinyl chloride (PVC) pipes connected from the gravel base to Fantec model Rn4EC inline fans mounted on the exterior walls of the buildings. Each of these SSD systems were designed to maintain negative pressure differentials of at least 0.002 wci.

The SSD systems fans were connected to 120-volt AC feed from the buildings' electrical panels to an exterior disconnect switch on Building 2, Building 3, and Building 4, and roof mounted disconnect switches on Building 1. The stacks on each system were equipped with magnehelic gauges to monitor the pressure differentials. Audible alarms were also equipped on the stacks to signal in the event of vacuum loss. Contact phone numbers were affixed below the magnehelic gauges for reporting any vacuum loss event.

### 4.4.3 Stormwater Treatment System

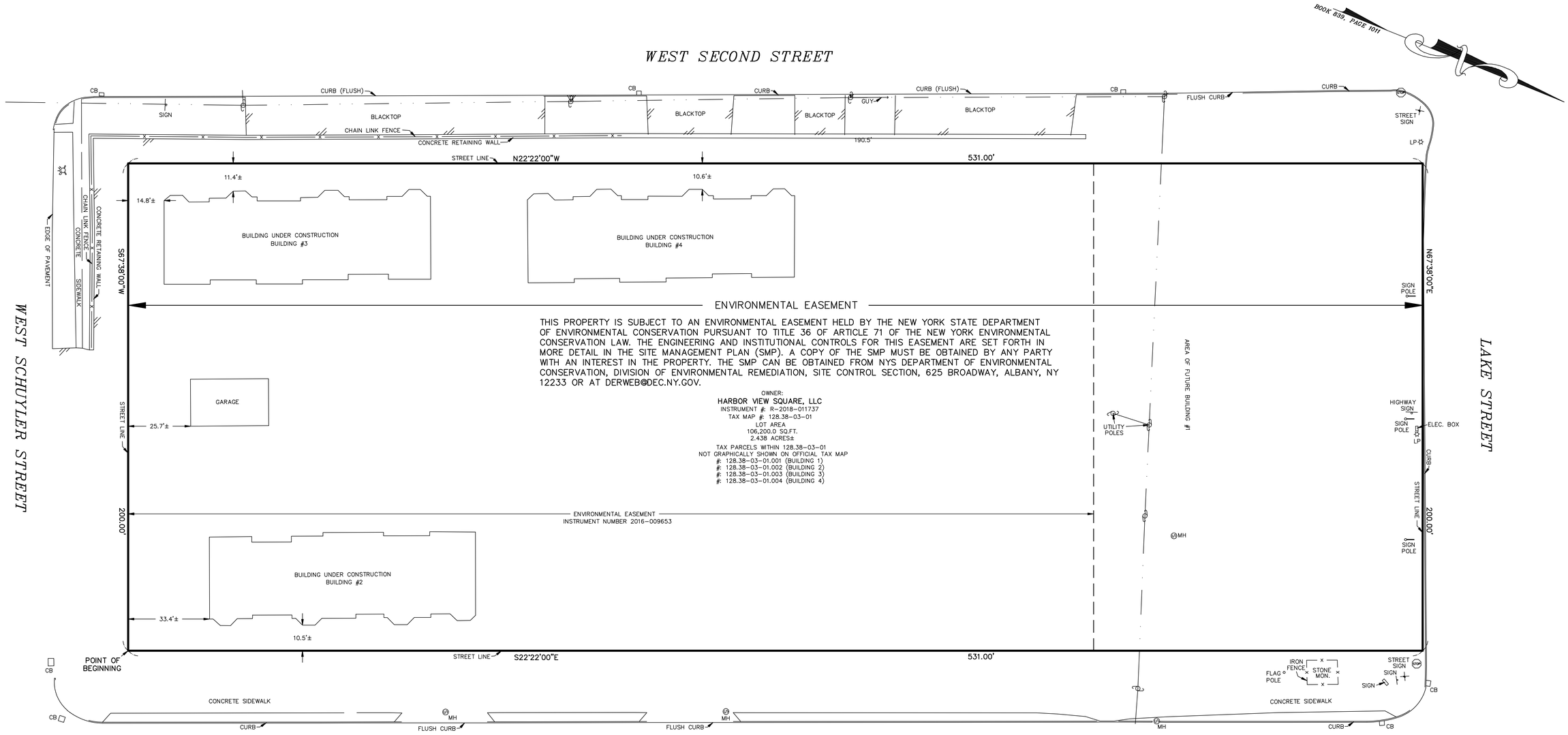
A stormwater treatment system was installed in the stormwater collection system to address any residual NAPL that was observed in the bedrock within the footprint of the Building 3. The stormwater treatment system consists of a Downstream Defender® advanced vortex separator manufactured by Hydro International which shown to be effective at capturing suspended solids, debris, and oil from stormwater effluent.

### 4.4.4 Groundwater Injections

An injection well and a network of monitoring wells have been installed and will be supplemented in the future, as necessary, to facilitate the injection and monitoring program. Additional monitoring and injections will be performed as part of Site Management, as necessary, to address remaining contamination in the bedrock groundwater. The Site Management Plan includes provisions for such injections and additional groundwater monitoring, as well as a draft injection work plan and implementation schedule.

# APPENDIX A

# SURVEY MAP, METES AND BOUNDS DESCRIPTION




## WEST FIRST STREET

### RECORD DESCRIPTION

68 WEST FIRST STREET: TAX PARCEL NUMBER 128.38-03-01 (UNIT 1)

THE UNIT DESIGNATED AS UNIT No. 1 IN THE DECLARATION COMPRISING HARBOR VIEW SQUARE CONDOMINIUM LOCATED IN THE CITY OF OSWEGO, COUNTY OF OSWEGO, NEW YORK, (HEREINAFTER CALLED THE "PROPERTY"), MADE BY HOUSING VISIONS CONSULTANTS, INC. UNDER THE CONDOMINIUM ACT OF THE STATE OF NEW YORK, AS AMENDED (ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK), DATED NOVEMBER 6TH, 2018 AND RECORDED IN THE OFFICE OF THE COUNTY CLERK OF OSWEGO COUNTY ON THE 30TH DAY OF NOVEMBER, 2018 AS INSTRUMENT NUMBER 2018-011736 (HEREINAFTER CALLED THE "DECLARATION"), WHICH UNIT IS ALSO DESIGNATED AS UNIT 1, LOCATED ON PAGE A-100 OF THE CONSTRUCTION DRAWINGS FOR HARBOR VIEW SQUARE – BLDG. #1 AS CERTIFIED AND PREPARED BY PASSERO ASSOCIATES, AND FILED SIMULTANEOUSLY WITH SAID DECLARATION IN THE OFFICE OF THE COUNTY CLERK OF OSWEGO COUNTY (HEREINAFTER CALLED THE "UNIT"), TOGETHER WITH OTHERS WITH THE USE OF THE COMMON ELEMENTS, AS DEFINED IN SAID DECLARATION. THE APPURTENANT INTERESTS OF UNIT 1 IN THE COMMON ELEMENTS IS 12%. THE LAND AREA OF THE PROPERTY IS DESCRIBED AS FOLLOWS:

ALL TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF OSWEGO, COUNTY OF OSWEGO, STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF WEST SCHUYLER STREET WITH THE WEST LINE OF WEST FIRST STREET

THENCE; S 67° 38' 00" W, ALONG THE NORTH LINE OF WEST SCHUYLER STREET, A DISTANCE OF 200.00 FEET TO THE INTERSECTION OF THE NORTH LINE OF WEST SCHUYLER STREET WITH THE EAST LINE OF WEST SECOND STREET

THENCE; N 22° 22' 00" W, ALONG THE EAST LINE OF WEST SECOND STREET, A DISTANCE OF 531.00 FEET TO THE INTERSECTION OF THE EAST LINE OF WEST SECOND STREET WITH THE SOUTH LINE OF LAKE STREET

THENCE; N 67° 38' 00" E, ALONG THE SOUTH LINE OF LAKE STREET, A DISTANCE OF 200.00 FEET TO THE INTERSECTION OF THE SOUTH LINE OF LAKE STREET WITH THE WEST LINE OF AFORESAID WEST FIRST STREET

THENCE; S 22° 22' 00" E, ALONG THE WEST LINE OF WEST FIRST STREET, A DISTANCE OF 531.00 FEET TO THE POINT AND PLACE OF BEGINNING

CONTAINING 106,200 SQUARE FEET OR 2.438 ACRES OF LAND MORE OR LESS

68 WEST FIRST STREET: TAX PARCEL NUMBER 128.38-03-01 (UNIT 2)

THE UNIT DESIGNATED AS UNIT No. 2 IN THE DECLARATION COMPRISING HARBOR VIEW SQUARE CONDOMINIUM LOCATED IN THE CITY OF OSWEGO, COUNTY OF OSWEGO, NEW YORK, (HEREINAFTER CALLED THE "PROPERTY"), MADE BY HOUSING VISIONS CONSULTANT'S, INC. UNDER THE CONDOMINIUM ACT OF THE STATE OF NEW YORK, AS AMENDED (ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK), DATED NOVEMBER 6, 2018 AND RECORDED IN THE OFFICE OF THE COUNTY CLERK OF OSWEGO COUNTY ON THE 30TH DAY OF NOVEMBER, 2018 AS INSTRUMENT NUMBER R-2018-011736 (HEREINAFTER CALLED THE "DECLARATION"), WHICH UNIT IS ALSO DESIGNATED AS UNIT 2, LOCATED ON PAGES A-101, A-102, A-103, AND A-104 OF THE CONSTRUCTION DRAWINGS FOR HARBOR VIEW SQUARE – BLDG. #2, AND ON PAGES A-100 AND A-101 OF THE CONSTRUCTION DRAWINGS FOR HARBOR VIEW SQUARE – BLDG. #3 & BLDG. #4 AS CERTIFIED AND PREPARED BY PASSERO ASSOCIATES, AND FILED SIMULTANEOUSLY WITH SAID DECLARATION IN THE OFFICE OF THE COUNTY CLERK OF OSWEGO COUNTY (HEREINAFTER CALLED THE "UNIT"), TOGETHER WITH OTHERS WITH THE USE OF THE COMMON ELEMENTS, AS DEFINED IN SAID DECLARATION. THE APPURTENANT INTERESTS OF UNIT 2 IN THE COMMON ELEMENTS IS 88%. THE LAND AREA OF THE PROPERTY IS DESCRIBED AS FOLLOWS:

ALL TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF OSWEGO, COUNTY OF OSWEGO, STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF WEST SCHUYLER STREET WITH THE WEST LINE OF WEST FIRST STREET

THENCE; S 67° 38' 00" W, ALONG THE NORTH LINE OF WEST SCHUYLER STREET, A DISTANCE OF 200.00 FEET TO THE INTERSECTION OF THE NORTH LINE OF WEST SCHUYLER STREET WITH THE EAST LINE OF WEST SECOND STREET

THENCE; N 22° 22' 00" W, ALONG THE EAST LINE OF WEST SECOND STREET, A DISTANCE OF 531.00 FEET TO THE INTERSECTION OF THE EAST LINE OF WEST SECOND STREET WITH THE SOUTH LINE OF LAKE STREET

THENCE; N 67° 38' 00" E, ALONG THE SOUTH LINE OF LAKE STREET, A DISTANCE OF 200.00 FEET TO THE INTERSECTION OF THE SOUTH LINE OF LAKE STREET WITH THE WEST LINE OF AFORESAID WEST FIRST STREET

THENCE; S 22° 22' 00" E, ALONG THE WEST LINE OF WEST FIRST STREET, A DISTANCE OF 531.00 FEET TO THE POINT AND PLACE OF BEGINNING

CONTAINING 106,200 SQUARE FEET OR 2.438 ACRES OF LAND MORE OR LESS

### ENVIRONMENTAL EASEMENT DESCRIPTION

ALL TRACT OR PARCEL OF LAND SITUATE IN THE CITY OF OSWEGO, COUNTY OF OSWEGO, STATE OF NEW YORK BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF WEST SCHUYLER STREET WITH THE WEST LINE OF WEST FIRST STREET

THENCE; S 67° 38' 00" W, ALONG THE NORTH LINE OF WEST SCHUYLER STREET, A DISTANCE OF 200.00 FEET TO THE INTERSECTION OF THE NORTH LINE OF WEST SCHUYLER STREET WITH THE EAST LINE OF WEST SECOND STREET

THENCE; N 22° 22' 00" W, ALONG THE EAST LINE OF WEST SECOND STREET, A DISTANCE OF 531.00 FEET TO THE INTERSECTION OF THE EAST LINE OF WEST SECOND STREET WITH THE SOUTH LINE OF LAKE STREET

THENCE; N 67° 38' 00" E, ALONG THE SOUTH LINE OF LAKE STREET, A DISTANCE OF 200.00 FEET TO THE INTERSECTION OF THE SOUTH LINE OF LAKE STREET WITH THE WEST LINE OF AFORESAID WEST FIRST STREET

THENCE; S 22° 22' 00" E, ALONG THE WEST LINE OF WEST FIRST STREET, A DISTANCE OF 531.00 FEET TO THE POINT AND PLACE OF BEGINNING

CONTAINING 106,200 SQUARE FEET OR 2.438 ACRES OF LAND MORE OR LESS

### LEGEND

- STREET LINE
- OVERHEAD WIRE
- SEWER MANHOLE
- STORM SEWER MANHOLE
- SIGN
- UTILITY POLE
- LIGHT POLE
- CATCH BASIN
- STOP SIGN

NOTES:

1) SURVEY SUBJECT TO ANY FACTS THAT AN UP TO DATE ABSTRACT OF TITLE MAY SHOW
2) PROPERTY WAS AN ACTIVE CONSTRUCTION SITE AT TIME OF SURVEY
3) UNDERGROUND UTILITIES ARE NOT A PART OF THIS SURVEY

GRAPHIC SCALE

20 0 10 20 40 80

( IN FEET )
1 inch = 20 ft.

LAND LINES
SURVEYING, P.C.
6181 JAMESVILLE TOLL ROAD
JAMESVILLE, NEW YORK 13078
315-492-4604

I HEREBY CERTIFY THAT THIS IS A CORRECT MAP MADE FROM AN ACTUAL SURVEY

Colin M. Kraft

STATE OF NEW YORK · COLIN M. KRAFT · 050450 · LICENSED LAND SURVEYOR

COLIN M. KRAFT
LICENSE No. 50450

68 WEST FIRST STREET
CITY OF OSWEGO
COUNTY OSWEGO
STATE OF NEW YORK

| | |
|---|---|
| DRAWN BY: CMK | DATE: 7/29/2019 |
| SCALE: 1"=20' | DWG.No.: 190745 |

# APPENDIX B

# SOIL AND SSDS CONSTRUCTION COMPLETION REPORT

# APPENDIX C

# GROUNDWATER CONSTRUCTION COMPLETION REPORT

# APPENDIX D

# ENVIRONMENTAL EASEMENT

# OSWEGO COUNTY – STATE OF NEW YORK

MICHAEL C. BACKUS COUNTY CLERK
46 EAST BRIDGE STREET, OSWEGO, NEW YORK 13126

**COUNTY CLERK'S RECORDING PAGE**
***THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH***

INSTRUMENT #: R-2020-000033

Receipt#: 20209129055
Clerk: CCOLLINS
Rec Date: 01/02/2020 12:18:05 PM
Doc Grp: D
Descrip: EASEMENT
Num Pgs: 10
Rec'd Frm: VANGUARD RESEARCH & TITLE SERVICES INC- LISA

Party1: HARBOR VIEW SQUARE LLC
Party2: PEOPLE OF THE STATE OF NEW YORK
Town: OSWEGO

Recording:

| | |
|---|---|
| Number of Pages | 50.00 |
| Recording Fee/Cover Sheet | 20.00 |
| Extra Name Charge | 0.50 |
| TP 584 | 5.00 |
| Cultural Ed | 14.25 |
| Records Management - Coun | 1.00 |
| Records Management - Stat | 4.75 |
| Sub Total: | 95.50 |

Transfer Tax

| | |
|---|---|
| Transfer Tax | 0.00 |
| Sub Total: | 0.00 |
| Total: | 95.50 |

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
Transfer Tax #: 1844
Exempt

Total: 0.00

I hereby certify that the within and foregoing was recorded in the Oswego County Clerk's Office

Michael C. Backus
Oswego County Clerk

Record and Return To:

GREGORY ALLEN
90 STATE STREET SUITE 1009
ALBANY NY 12207

## ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36 OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

**THIS INDENTURE** made this 18th day of December, 2019 between Owner, Harbor View Square, LLC, having an office at 1201 East Fayette Street, Suite 26, Syracuse, New York 13210, County of Onondaga, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

**WHEREAS,** the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

**WHEREAS,** the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

**WHEREAS,** the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

**WHEREAS,** Grantor, is the owner of real property located at the address of 68 West First Street in the City of Oswego, County of Oswego and State of New York, known and designated on the tax map of the County Clerk of Oswego as tax map parcel number: Section 128.38 Block 03 Lot 01, being the same as that property conveyed to Grantor by deed dated November 6, 2018 and recorded in the Oswego County Clerk's Office in Instrument No. R-2018-011737. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 2.438 +/- acres, and is hereinafter more fully described in the Land Title Survey dated July 29, 2019 prepared by Colin M. Kraft, L.L.S. of Land Lines Surveying, P.C., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

**WHEREAS,** the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation established for the Controlled Property until such time as this Environmental Easement is

extinguished pursuant to ECL Article 71, Title 36; and

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of Brownfield Cleanup Agreement Index Number: C738040-11-16, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

**Restricted Residential as described in 6 NYCRR Part 375-1.8(g)(2)(ii), Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Oswego County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining

contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, New York 12233
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation**

Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:

(i) are in-place;

(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against

the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:

Site Number: C738040
Office of General Counsel
NYSDEC
625 Broadway
Albany New York 12233-5500

With a copy to:

Site Control Section
Division of Environmental Remediation
NYSDEC
625 Broadway
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the

recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

**Remainder of Page Intentionally Left Blank**

**IN WITNESS WHEREOF,** Grantor has caused this instrument to be signed in its name.

Harbor View Square, LLC:

By: _____

Print Name: Benjamin Lockwood

Title: Authorized Signatory Date: 12/5/19

**Grantor's Acknowledgment**

STATE OF NEW YORK )
) ss:
COUNTY OF Onondaga )

On the 5th day of December, in the year 20 19, before me, the undersigned, personally appeared Benjamin Lockwood personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public - State of New York

NANCY J. MONAST
Notary Public, State of New York
Qualified in Onondaga County
No. 01MO6297763
Commission expires March 3, 2022

**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK**, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: _____
Michael J. Ryan, Director
Division of Environmental Remediation

**Grantee's Acknowledgment**

STATE OF NEW YORK )
) ss:
COUNTY OF ALBANY )

On the 18th day of December, in the year 2019, before me, the undersigned, personally appeared Michael J. Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public - State of New York

**David J. Chiusano**
**Notary Public, State of New York**
**No. 01CH5032146**
**Qualified in Schenectady County**
**Commission Expires August 22, 2022**

## SCHEDULE "A" PROPERTY DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Oswego, County of Oswego and State of New York being more particularly bounded and described as follows:

Beginning at the intersection of the north line of West Schuyler Street with the west line of West First Street;

Thence S 67° 38' 00" W, along the said north line of West Schuyler Street, a distance of 200.00 feet to the intersection of the north line of West Schuyler Street with the east line of West Second Street;

Thence N 22° 22' 00" W, along the east line of West Second Street, a distance of 531.00 feet to the intersection of the east line of West Second Street with the south line of Lake Street;

Thence N 67° 38' 00" E, along the south line of Lake Street, a distance of 200.00 feet to the intersection of the south line of Lake Street with the west line of aforesaid West First Street;

Thence S 22° 22' 00" E, along the west line of West First Street, a distance of 531.00 feet to the point or place of beginning.

Containing 106,200 square feet or 2.438 acres of land, more or less.